

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

CARLOS EDUARDO GOMEZ MEJIA, :	:	
	:	
Petitioner,	:	
	:	
v.	:	CASE NO. 4:17-CV-51-CDL-MSH
	:	28 U.S.C. § 2241
	:	
ATTORNEY GENERAL OF THE	:	
UNITED STATES, <i>et al.</i> ,	:	
	:	
Respondents.	:	

RECOMMENDATION OF DISMISSAL

Presently pending before the Court is Respondents’ Motion to Dismiss, filed on May 19, 2017. (ECF No. 9.) In his petition for habeas relief pursuant to 28 U.S.C. § 2241, Petitioner contends that he should be released from custody. Pet. for Writ of Habeas Corpus 8, ECF No. 1. Along with the Motion to Dismiss, Respondents filed a copy of the Form I-830 showing that Petitioner was granted parole on May 8, 2017. Mot. to Dismiss Ex.at 2, ECF No. 9-2. Because of Petitioner’s release, Respondents now contend that Petitioner’s pending § 2241 petition is moot and should be dismissed as such. Mot. to Dismiss 1-3. The Court agrees and recommends dismissal of this case as moot.

“[A] case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335-36 (11th Cir. 2001) (internal quotation marks and citation omitted). “If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give

the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed.”
Id. at 1336.

Here, Petitioner sought to be released from custody. Pet. for Writ of Habeas Corpus 8. Petitioner has been granted the requested relief and was released from the physical custody of ICE. Mot. to Dismiss Ex. at 2. Furthermore, Petitioner has not contested the conditions of his release such that this Court could maintain jurisdiction over his habeas petition. *See Alvarez v. Holder*, 454 F. App’x 769 (11th Cir. 2011). Since the Court can no longer give the Petitioner any meaningful relief, the case is moot and “dismissal is required because mootness is jurisdictional.” *Al Najjar*, 273 F.3d at 1336.

Consequently, it is recommended that Respondents’ Motion to Dismiss (ECF No. 9) be granted and Petitioner’s Application for writ of habeas corpus be dismissed without prejudice to his right to file a new § 2241 petition in the future if a change in his circumstances occurs. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within fourteen (14) days after being served with a copy hereof. The district judge shall make a de novo determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, “[a] party failing to object to a magistrate judge’s findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1)

waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO RECOMMENDED, this 23rd day of June, 2017.

/s/ Stephen Hyles

UNITED STATES MAGISTRATE JUDGE